



Certificate of Need

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Georgia House Study Committee on Certificate of
Need Modernization

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Presentation Overview



Strengthening the Legislative Institution

How NCSL Strengthens Legislatures



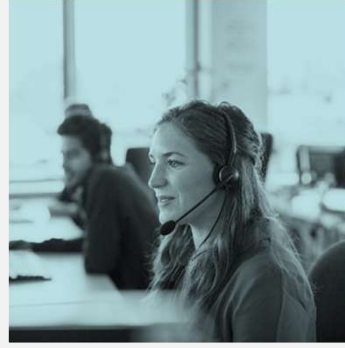
Policy Research

NCSL provides trusted, nonpartisan policy research and analysis



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NCSL links legislators and staff with each other and with experts



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NCSL delivers training tailored specifically for legislators and staff



State Voice in D.C.

NCSL represents and advocates on behalf of states on Capitol Hill



Meetings

NCSL meetings facilitate information exchange and policy discussions



Certificate of Need: Background and National Overview

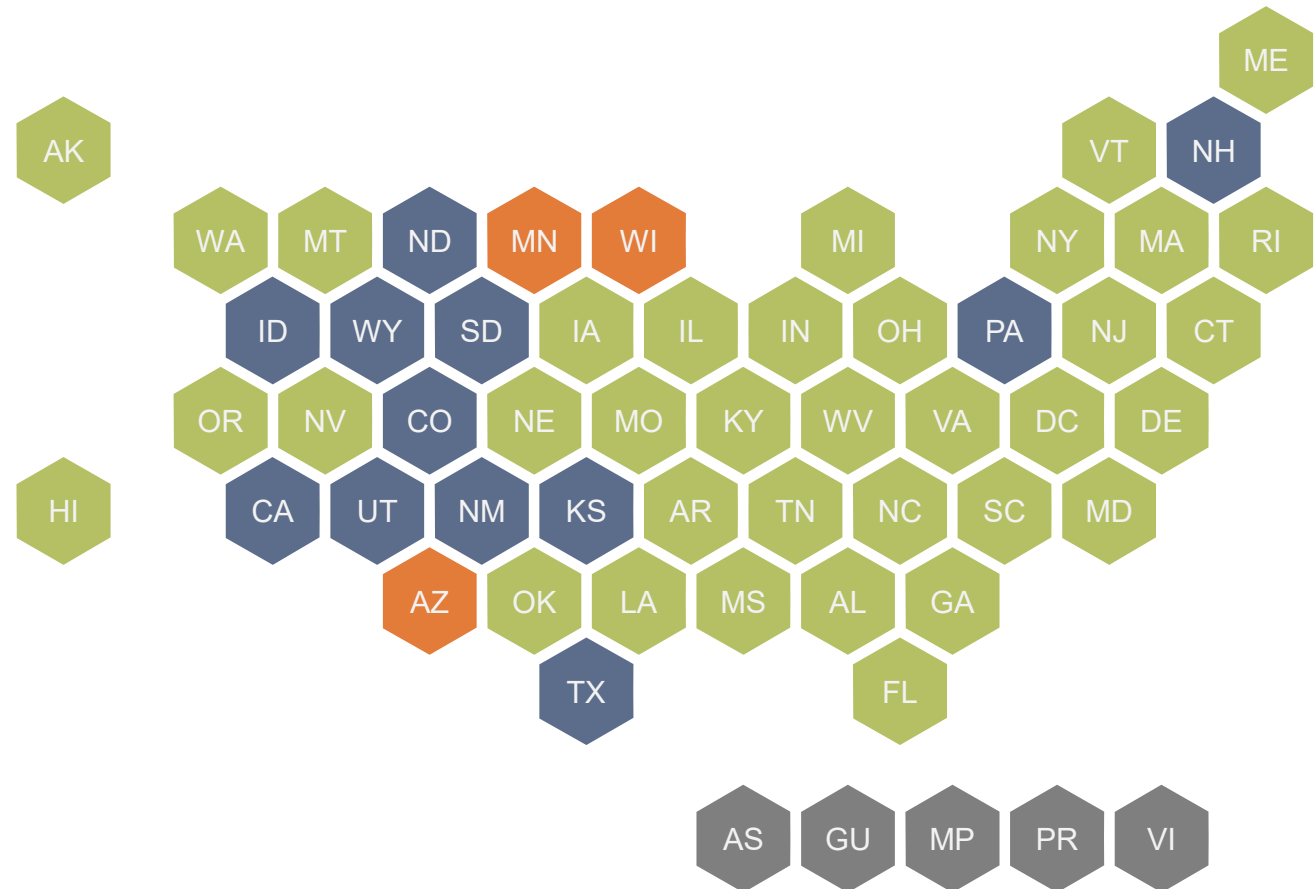
What is Certificate of Need?

- Certificate of Need (CON) laws require health care facilities to seek state approval prior to major capital expenditures or projects.
- For example:
 - Constructing a new hospital.
 - A nursing home expanding their bed capacity.
 - Health systems opening a new ambulatory care center or initiating new services like a burn unit.



Certificate of Need State Laws (as of June 2023)

- CON Law
- Variation of CON Law
- No CON Law
- No Data



Certificate of Need: Key Terms



Oversight Entity: a state body, such as a department of health, office of health facility licensing or other entity that operates the certificate of need program.



Regulated Facilities: any real property or equipment owned or leased by the health care institution which CON review is applied to (statute often includes reference to specific facility types, e.g., hospitals).



Regulated Health Services: clinically related (i.e., diagnostic, curative or rehabilitative) services provided in or through health-care facilities.



Capital Expenditure: an expenditure made by or on behalf of the health facility that is not chargeable as an expense of operation or maintenance and includes acquisition by purchase, transfer, lease or comparable arrangement.



Licensed Beds/ Bed Capacity: the total number of inpatient beds in a facility licensed by the respective state agency.



Review Cycle: the timeframe set for the review and initial decision for CON applications that have been deemed complete.



Service Area: the current and projected service areas to which the facility is, or will be, providing services.



CON Deep Dive - State Examples

State Example: Tennessee

Oversight Entity	Regulated Facilities	Regulated Activities
<ul style="list-style-type: none">Tennessee Department of Health:<ul style="list-style-type: none">Health Services Development Agency – reviews CON applications.Division of Health Planning – sets standards and requirements for demonstrating CON.	<ul style="list-style-type: none">Nursing homesHospitalsHome care organizationOutpatient diagnostic centerAmbulatory surgical treatment centers	<ul style="list-style-type: none">Constructing, developing or establishing a health care facility.Changing the licensed bed/ bed capacity of a facility.Initiating services such as a burn unit or open-heart surgery.

State Example: North Carolina

Oversight Entity	Regulated Facilities	Regulated Activities
<ul style="list-style-type: none">North Carolina Department of Health and Human Services:<ul style="list-style-type: none">Healthcare Planning and Certificate of Need Section within the NC Division of Health Service Regulation.	<ul style="list-style-type: none">HospitalsNursing homesHome health agenciesHospice home care agenciesKidney disease treatment centers	<ul style="list-style-type: none">Establishing a new medical care facility.Adding gastrointestinal endoscopy rooms.Initiating new open-heart surgery or neonatal intensive care services.

State Example: Ohio

Oversight Entity	Regulated Facilities	Regulated Activities
<ul style="list-style-type: none">Ohio Department of Health:<ul style="list-style-type: none">Office of Health Assurance and Licensing/Health Care Services Section	<ul style="list-style-type: none">Long-term care facilities, including:<ul style="list-style-type: none">a nursing home.the portion of any facility that is certified as a skilled nursing facility.	<ul style="list-style-type: none">Establishing, developing or constructing new long-term care facilities.Replacing an existing facility.Increasing long-term care bed capacity.Relocating long-term care beds from one site to another.

Certificate of Need Variations

State Examples

Arizona

- **Regulated Facilities & Activities:** Requires CON application for ambulance services and ambulances.
- **Oversight Entity:** Arizona Department of Health Services, Bureau of Emergency Medical Services & Trauma System.

Minnesota

- **Regulated Facilities & Activities:** Maintains moratoria for select facilities, including hospitals, with process to obtain exceptions from moratoria.
- **Oversight Entity:** Minnesota Department of Health, and the legislature retains the decision to grant an exception.

Wisconsin

- **Regulated Facilities & Activities:** Maintains moratoria for hospital and psychiatric or chemical dependency beds, with process to obtain exceptions from moratoria.
- **Oversight Entity:** Wisconsin Department of Health Services.



Recent Certificate of Need Legislation

Recent Certificate of Need Legislation



Substantial Reforms

- Montana and South Carolina limit CON oversight to long-term care facilities. Florida limits CON review to hospice and long-term care facilities.



Targeted Modifications

- Washington exempts rural health clinics in home health shortage areas from CON review.
- Kentucky includes conditions for ambulance services to be exempt from CON review.
- West Virginia exempts birthing centers from CON review.



Additional Requirements

- Illinois and Nevada requires health facilities to seek CON approval prior to closing a facility.
- New York requires a health equity assessment to be filed with certain CON applications.

Recent Certificate of Need Legislation: Task Forces and Study Committees

Kentucky

Special Committee Certificate of Need Task Force

- **Goal:** reviewing Kentucky's CON program and the need to maintain or modify for each covered health service.
- **Recommendations (forthcoming):** submit any findings/recommendations regarding CON for referral to the appropriate committee of jurisdiction.

Connecticut

Certificate of Need Task Force

- **Goal:** studying and recommending the effect of CON on 10 matters.
- **Recommendation:** recently published report includes multiple recommendations responding to each of the 10 matters.

South Carolina

Certificate of Need Study Committee

- **Goal:** examining the effect of CON repeal on health care quality and access in rural areas.
- **Recommendations (forthcoming):** recommend action on any of the rural health care access measures studied, may include legislative, regulatory or policy changes.

Certificate of Need Legislation: Task Forces and Study Committees *(2015 and earlier)*

Illinois HR 1497 (2006)

- **Goal:** evaluating the Illinois Health Facilities Planning Act to determine if it is meeting the goals and objectives that were originally intended.
- **Recommendations:** An Evaluation of Illinois' Certificate of Need Program (The Lewin Group, 2016).

Virginia SB 1283 (2015)

- **Goal:** reviewing the current CON process and its impact on health care services and the need for changes to the current CON process.
- **Recommendation:** Certificate of Public Need Workgroup – Final Report (Certificate of Public Need Workgroup, 2015).

Washington SB 6108 (1998)

- **Goal:** studying the effects of the CON program and CON repeal on the cost, quality, and availability of health care services in various facilities.
- **Recommendations:** Effects of Certificate of Need and Its Possible Repeal (State of Washington Joint Legislative Audit and Review Committee, 1998).



Research and Studies

Certificate of Need: Research and Studies

Certificate of Need Laws: A Systematic Review and Cost-effectiveness Analysis

- Reviewed 90 articles to summarize the evidence on how CON laws affect regulatory costs, health expenditures, health outcomes, and access to care.

The Association of Hospital Cost-Inefficiency with Certificate-of-Need Regulation

- Compared the cost-inefficiency of urban, acute care hospitals in states with CON laws against those in states without CON requirements using data from 1,552 hospitals in 37 states over four years.

Does Certificate of Need Really Contain Hospital Costs in the United States?

- Examined the impact of CON laws on hospital costs by looking at data for 1,957 acute care hospitals in 301 standard metropolitan statistical areas (SMSAs).

Association of State Certificate of Need Regulation With Volumes, Market Share and Outcomes

- Examined if there an association between CON laws and markers of hospital procedural activity and quality of care by analyzing Medicare beneficiaries who underwent 1 of 10 specified procedures.

Additional Resources

- [Certificate of Need Webpage \(NCSL\)](#)
- [Health Costs, Coverages and Delivery Database \(NCSL\)](#)
- [Repeal or Retool? States Assess Certificate of Need Laws \(NCSL\)](#)





Reach out anytime!

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